

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

*As Engrossed: S3/10/11*

# A Bill

SENATE BILL 764

5 By: Senator J. Key  
6 By: Representative Johnston  
7

## For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE ARKANSAS DEPARTMENT OF  
10 ENVIRONMENTAL QUALITY TO ISSUE GENERAL PERMITS; TO  
11 CREATE PROCEDURES FOR ISSUANCE, REVIEW, RENEWAL, AND  
12 REVOCATION OF GENERAL PERMITS; AND FOR OTHER  
13 PURPOSES.  
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## Subtitle

16 AN ACT TO AUTHORIZE THE ARKANSAS  
17 DEPARTMENT OF ENVIRONMENTAL QUALITY TO  
18 ISSUE GENERAL PERMITS; TO CREATE  
19 PROCEDURES FOR ISSUANCE, REVIEW, RENEWAL,  
20 AND REVOCATION OF GENERAL PERMITS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 8-4-203, concerning permits regarding water  
27 pollution control, is amended to add an additional subsection to read as  
28 follows:

29 (m)(1)(A)(i) The department may issue general permits under subsection  
30 (a) of this section.

31 (ii) A general permit is a statewide permit for a  
32 category of facilities or sources that:

33 (a) Involve the same or substantially similar  
34 types of operations or activities;

35 (b) Discharge or release the same type of  
36 wastes or engage in the same type of disposal practices;



1 (c) Require the same limitations, operating  
2 conditions, or standards;

3 (d) Require the same or similar monitoring  
4 requirements; and

5 (e) In the opinion of the director, may be  
6 regulated under a general permit.

7 (B)(i) Facilities or sources eligible to construct or  
8 operate under a general permit may obtain coverage by submitting a notice of  
9 intent to the department.

10 (ii) The director may require a person who has been  
11 granted coverage under a general permit to apply for and obtain an individual  
12 permit.

13 (2)(A) A general permit is subject to the public notice  
14 requirements for statewide permits and the procedures under § 8-4-203(e).

15 (B) The department shall pay the costs of publication of  
16 notice of a draft permitting decision to issue a general permit.

17 (C) General permit coverage is not transferable unless the  
18 general permit provides for transfer.

19 (3)(A)(i) Before the submittal to public comment of a general  
20 permit that has not been previously issued, the department shall consider the  
21 economic impact and environmental benefit of the general permit and its terms  
22 and conditions upon the people of the State of Arkansas, including those  
23 entities that may apply for coverage under the general permit.

24 (ii) This requirement does not apply to general  
25 permits or terms or conditions that adopt the language of state or federal  
26 statutes or regulations without substantive change.

27 (B) If the terms and conditions of a previously issued  
28 general permit are revised upon renewal, the economic impact and  
29 environmental benefit of only the proposed changes shall be considered.

30 (C) A general permit for which costs are specifically  
31 prohibited from being considered by state or federal law or regulation is  
32 exempt from the requirements of this subsection.

33 (D) The department may rely upon readily available  
34 information for its consideration of the economic impact and environmental  
35 benefit of the general permit and its terms and conditions.

36 (4)(A) Only those persons that submit comments on the record

1 during the public comment period shall have standing to appeal the decision  
2 of the department to the commission.

3 (B) The final permitting decision of the department on the  
4 general permit is subject to a hearing before the commission under §§ 8-4-  
5 205, 8-4-212, 8-4-213, 8-4-214, and the administrative procedures promulgated  
6 by the commission.

7 (5)(A)(i) When a general permit includes an expiration date  
8 later than July 1, 2012, the department shall publish the notice of intent to  
9 renew or not renew the general permit at least three hundred sixty-five (365)  
10 days before the expiration of the general permit.

11 (ii) When a general permit includes an expiration  
12 date earlier than July 1, 2012, the department shall publish the notice of  
13 intent to renew or not renew the general permit as soon as reasonably  
14 possible.

15 (B) The department shall publish its final permitting  
16 decision to renew or not renew the general permit at least one hundred eighty  
17 (180) days before the expiration date of the general permit.

18 (C) If the general permit expires before the final  
19 decision to renew or not renew the general permit, the terms and conditions  
20 of the general permit shall remain in effect, and all persons who obtained  
21 coverage under the general permit before its expiration shall retain coverage  
22 under the general permit until there has been a final permit decision on the  
23 general permit.

24 (D) In the event the department makes a decision to not  
25 renew the general permit, existing coverage under the general permit shall  
26 continue under the terms of the expired permit until a final decision is  
27 reached for an individual permit.

28 (6)(A) If a general permit is appealed and the general permit  
29 expires before the final decision by the director or by the commission to  
30 renew or not renew the general permit, the terms and conditions of the  
31 general permit shall remain in effect.

32 (B) All persons who obtained coverage under the general  
33 permit before its expiration shall retain coverage under the general permit  
34 until there has been a final administrative decision on the general permit.

35 (C) The director shall not approve new coverage under an  
36 expired general permit for any facility for which a notice of intent was not

1 filed before expiration of the general permit.

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*/s/J. Key*

**APPROVED: 03/25/2011**